

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 7493 of 2006

UNITED INDIA INSURANCE CO.LTD.
V/S
THE DISTRICT JUDGE,SGNR.& ANR.

Mr. PR SIKKA, Mr. MANOJ BHANDARI, for the appellant /
petitioner

Mr. AVINASH ACHARYA for Mr. LR MEHTA, for the respondent

Date of Order : 23.7.2007

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the parties.

By the impugned order, the learned trial Court has
allowed the plaintiff's application filed under Order 8
Rule 9.

It is contended by learned counsel for the
petitioner that in the garb of the rejoinder, the plaintiff
has introduced very many new facts, and new pleadings,
which cannot be said to be a rejoinder within the
comprehension of the term as contemplated by CPC.

Learned counsel for the respondent, on the other
hand, supported the impugned order.

A perusal of the impugned order shows that the
learned trial Court has not applied itself, about the
pleadings taken in the application for permission to file
rejoinder with a view to consider, as to whether the

plaintiff is entitled to take those pleadings or not, and whether they are the pleadings in the nature of rejoinder or not. It would not be appropriate for me to undertake the whole exercise myself by reading the plaint, written-statement, and the plea sought to be raised by way of rejoinder, and examine each paragraph, as to whether it should be allowed or not. In that view of the matter, I think it appropriate to set aside the impugned order, and direct the learned trial Court to consider the matter afresh, and pass a detailed speaking order with respect to each of the plea sought to be raised by way of rejoinder, and come to the conclusion, as to whether each particular plea is to be allowed, or not to be allowed, and shall allow only such pleadings, which the trial Court finds the plaintiff to be entitled to incorporate.

The writ petition is, accordingly, disposed of.

(N P GUPTA), J.

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